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CHESAPEAKE & OHIO RAILWAY CO. v. ANDERSON.—Decided at Staunton, October 5, 1896. *Cardwell, J.*:

1. INSTRUCTIONS—*Evidence tending to prove a supposed case.* Where there is evidence tending to prove a supposed case, however inadequate, or to however little weight it may be entitled, it is best and safest for the trial court, if requested, to give an instruction covering the case supposed.

2. RAILROADS—*Trespassers—Expulsion by brakeman.* Expulsion of trespassers from the cars of a railroad company is not a duty incident to the position of brakeman, and authority to do so does not arise by implication. But if it has been the custom of brakemen to eject trespassers, and the railroad company knows or ought to know of that custom, authority to do so may be inferred and the company be held liable for damages resulting from any improper and unlawful exercise of the authority by the brakeman.

3. RAILROADS—*Trespassers—Expulsion by brakeman—Rules of company.* If the rules and regulations of a railroad company require brakemen to report trespassers on trains to their conductors, and it appears that the brakemen on the trains run by a designated conductor were in the habit of expelling trespassers from said trains without orders from the conductor, but in his sight or hearing, and with his approval and assent at the time, and it does not appear that the officers of the company knew of such habit, then all expulsions so made must be construed to be the acts of the conductor, and not violations of the rules and regulations of the company.

4. WRITS OF ERROR—*What not accepted as true—Case at bar.* Although a case upon a writ of error is heard in the appellate court as upon a demurrer to the evidence, yet the court is not obliged to accept as true what, in the nature of things, could not have occurred in the manner and under the circumstances narrated, or what is not susceptible of proof. In the case at bar the accident could not have been caused in the manner stated.

KNIGHTS OF PYTHIAS v. WELLER.—Decided at Staunton, October 1, 1896.—*Harrison, J.*:

1. CORPORATIONS—*Expiration of charter—De facto corporation.* When the limit of corporate existence is fixed, either by charter or a general law, the corporation is dissolved when that limit is reached, without any action to that end either by the State, or the members of the corporation. Thereafter it is without power to adopt by-laws or do other like acts. It cannot set up the defence of by-laws made by it as a *de facto* corporation to avoid its contracts.

2. CORPORATIONS—*Effect of general laws on charter—Acts of Congress (1884) omitting limitation on duration of charter.* General laws affecting corporations form as essential parts of the charters of said corporations as though copied into them. The Act of Congress of 1884 which struck out from the general law the twenty-year limitation previously imposed on all charters, was entirely prospective, and applied only to corporations thereafter chartered.

3. PLEADING—*Variance between declaration and proof.* If a declaration avers that the contract sued on was made by the defendant corporation, and the proof shows that the contract was in fact made by another corporation whose liabilities